

Hopes ChatGPT will help those representing themselves in court

by Emma Hatton 06/01/2024

New Zealand courts have approved **guidelines** for the use of generative AI tools, such as Chat GPT. These guidelines apply to all courts and tribunals and vary slightly for lawyers and non-lawyers. Law Society Civil Litigation and Tribunals Committee member Felicity Monteiro who is a partner at Wilson Harle said the tools were powerful and **useful for self-representing litigants**.

“Because I think it must be daunting when you’re up against a lawyer and so having a tool where you can **present your arguments or evidence in a well-written way**, must feel really like you’ve got some backup. So I can see why it would be a really useful tool.”

However, she does have concerns.

“So these tools are really good at putting material together to make it look convincing but **they don’t know when they’ve made a mistake** and they **can’t tell the difference between facts and opinion.**”

For example, in the US earlier this year **the lawyer** for a man suing an airline in a routine personal injury suit used ChatGPT to prepare a filing, but the bot delivered fake cases that the attorney then presented to the court.

The guidelines make this clear: “GenAI **chatbots cannot give you reliable legal advice that is tailored to a specific case.**”

“GenAI chatbots are not search engines. They do not provide answers from authoritative sources. Rather, they put words together based on what you tell them and information they have previously been given. This means **the output generated by a GenAI chatbot** is what it predicts to be the most likely combination of words, **not necessarily the most correct or accurate answer.**”

They also advise against entering private, confidential, suppressed or legally privileged information into the chat bot, and make clear the person submitting the information is responsible for its accuracy.

People will not need to disclose that they’ve used generative AI though, unless explicitly asked.

The number of self-represented litigants is increasing, and is very common in civil district court cases. For the year ended June 7, 232 cases involved self-represented parties – 72 percent of all civil cases through the District Court.

Monteiro said the increase was having an **impact on court operations**.

“It’s one thing to know the substantive law that your matter relates to, but **it’s also all of the procedural rules and regulations.**”

“And so, when people are acting for themselves they’re sort of strangers to both of those things and what that means **for registry staff is there’s often a lot of back and forth before it’s even filed.**”

She said there was a lot of **court registry staff turnover** at the moment as well, which made things even harder.

“What that means is we’ve got **inexperienced or brand new litigants** dealing with **inexperienced registry staff** and what we’re seeing as lawyers, acting for defendants, is that we’re getting documents that are impossible to actually respond to and that previously, we probably would have not actually seen because they would have been rejected.

“Then you’ve got to work out what their actual claim is, so you’ve sort of **got to do the work twice.**”

She said generative AI tools could help **self-represented litigants prepare submissions in the correct formats, but should not rely on it to do the legal work.**

SUMMARY

- 1- The Guideline: green-light for pro se (self-representing) litigants to use Gen AI
2. Pb 1: Gen AI not totally reliable and limited contextual understanding

3. PB 2: Gen AI cannot deal with procedural rules and regulations

---→ Solution AI can be used to prepare submissions but not for the legal work

COMMENTARY

Questions 1

Can those guidelines be efficient?

Non-lawyers, self-representing litigants / pro se litigants/ are unlikely to understand the guidelines or what the guidelines imply. For example, an issue related to ethics can be brought up. Will those litigants be held to the same ethical standards as lawyers?

There is no mandatory declaration of AI use.

Question 2

Why do lawyers use AI? What are the benefits of AI in the legal field?

Legal research, Cost reduction, Efficiency, Enhanced accuracy, Increased productivity, Save time

→ algorithms provide lawyers with access to information faster, saving valuable hours = saving time and money

→ AI-powered predictive analytics assess case details and judge history and legal precedents to predict the likely outcome of a case

→ Fraud Detection in Legal Documents

Document verification: Artificial intelligence technology analyzes legal documents, contracts, and agreements to verify their authenticity and identify any alterations or forgeries.

Signature analysis: to prevent forgery

Content analysis: AI tools are able to analyze the content of legal documents to identify anomalies, inconsistencies, or suspicious language that indicate fraudulent activities or misrepresentations.

Data validation

-→ Drafting Legal document like contracts

-→ Automating Routine Legal Tasks: to categorize and organize legal documents, locating specific information and managing large document sets

-→ Law firms deploy chatbots on their websites to answer client queries, offer 24/7 support, and schedule appointments.

-→ to provide legal aid to pro se litigants for a much lesser cost

Question 3

Why is the number of self-represented litigants increasing?

57% of pro se said they could not afford a lawyer, 21% said they believed that their case was simple and therefore they did not need an attorney. Also, ABA Legal Needs Study shows that 45% of pro se believe that "Lawyers are more concerned with their own self-promotion than their client's best interest."

Should they be banned from using AI?

-→ consumers are already using AI tools in their day-to-day routines. Easy access with smartphones

→ ethical issues

-→ a threat to some legal prof = solicitors, legal service providers, paralegals, ...